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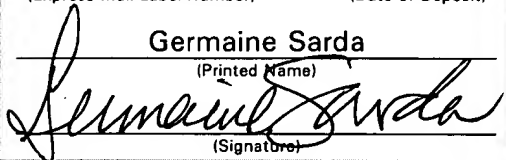
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Atty. Dkt. No. 071949-1315

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kenneth F. Buechler
Title: DIAGNOSTIC DEVICES AND
APPARATUS FOR THE
CONTROLLED MOVEMENT OF
REAGENTS WITHOUT
MEMBRANES
Appl. No.: 09/982,629
Filing Date: 10/18/2001
Examiner: Lyle Alexander
Art Unit: 1743

CERTIFICATE OF EXPRESS MAILING	
I hereby certify that this correspondence is being deposited with the United States Postal Service's "Express Mail Post Office To Addressee" service under 37 C.F.R. § 1.10 on the date indicated below and is addressed to: Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450.	
EL990321544US	March 1, 2004
(Express Mail Label Number)	(Date of Deposit)
Germaine Sarda	
(Printed Name)	
	
(Signature)	

TERMINAL DISCLAIMER

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Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

Your Petitioner, Biosite, Inc., having its principal place of business at 11030 Roselle Street, Suite D, San Diego, CA 92121 (hereinafter represents that it is the owner of the entire right, title, and interest in and to U.S. Patent Application Serial No. 09/982,629, filed 10/18/2001, which is a continuation of U.S. Patent Application No. 09/613,650, filed 07/11/2000, by virtue of an Assignment enclosed herewith, a copy of which is attached hereto as APPENDIX A and recorded on 10/14/2003 at reel/frame 014048/0892 in the United States Patent and Trademark Office. Further, your Petitioner represents that it is the owner of U.S. Patent No. 5,458,852, which issued on U.S. Patent Application No. 07/887,526, filed 05/21/1992, by virtue of an Assignment filed and recorded on 09/21/1992, on Reel/Frame

03/05/2004 HVUONG1 00000013 500872 09982629

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6243/0843, in the United States Patent and Trademark Office, a copy of which is attached hereto as APPENDIX B.

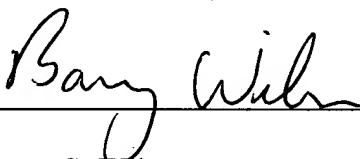
Your Petitioner, Biosite, Inc., hereby disclaims the terminal part of the term of any patent granted on the above captioned patent application which would extend beyond the full statutory term, as shortened by any terminal disclaimer, of U.S. Patent 5,458,852, and hereby agrees that any patent so granted on the above captioned patent application shall be enforceable only for and during such period that the legal title to U.S. Patent 5,458,852 shall be the same as the legal title to any patent granted on the above captioned patent application, this agreement to run with any patent granted on the above captioned patent application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim any terminal part of any patent granted on the above captioned patent application, prior to the full statutory term of U.S. Patent 5,458,852 as defined in 35 U.S.C. §§154-156 and 173, in the event that U.S. Patent 5,458,852 expires for failure to pay a maintenance fee, is held unenforceable or is found invalid in a final judgment by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321(a), has all claims canceled by a reexamination certificate or as a result of an interference proceeding, or is otherwise not deemed to provide the rights conveyed by 35 USC §154, prior to the full statutory term of U.S. Patent 5,458,852 as defined in 35 USC §§154-156 and 173, except for the separation of legal title stated above. Further, Petitioner does not disclaim any terminal part of a patent granted on the above captioned patent application that would extend beyond the present termination of U.S. Patent 5,458,852, in the event that such present term is extended by virtue of compliance with the conditions for term extension of any present or future patent term extension provisions of the patent law, including but not limited to 35 U.S.C. §§155, 155A or 156, and without waiving Petitioner's right to extend the term of a patent granted on the above captioned patent application to the extent provided by law.

The undersigned, being the Attorney of Record for the above captioned patent application, and duly authorized to act on behalf of Petitioner, certifies that he has reviewed the Assignments attached as APPENDICES A and B, and to the best of his knowledge and belief, legal title to the above captioned patent application and U.S. Patent 5,458,852 rests with Petitioner, Biosite, Inc. The undersigned declares that all statements made herein of their own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing therefrom.

Respectfully submitted,

Date March 1, 2004

By 

FOLEY & LARDNER LLP
Customer Number: 23620
Telephone: (858) 847-6722
Facsimile: (858) 792-6773

Barry S. Wilson
Attorney for Applicant
Registration No. 39,431



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
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OCTOBER 16, 2003

PTAS

FOLEY & LARDNER
BARRY S. WILSON
PO BOX 80278
SAN DIEGO, CA 92138-0278



700048211A

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RECORDATION DATE: 10/14/2003

REEL/FRAME: 014048/0892
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

BUECHLER, KENNETH F., PH.D.

DOC DATE: 10/10/2003

ASSIGNEE:

BIOSITE DIAGNOSTICS, INC.
11030 ROSELLE STREET
SUITE D
SAN DIEGO, CALIFORNIA 92121

SERIAL NUMBER: 09613650
PATENT NUMBER:

FILING DATE: 07/11/2000
ISSUE DATE:

PAULA MCCRAY, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

OCT. 14. 2003 3:05PM

850-12-6773 FOLEY AND LARDNER

NO. 4826 P. 2

10/14/2003
700048211

Atty. Dkt. No. 071949-1307

FORM PTO-1595 (modified)

(Rev 8-92)

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Patent and Trademark Office

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1. Name of conveying party(ies):

Kenneth F. Buechler, Ph.D.

2. Name and address of receiving party(ies):

Biosite Diagnostics, Inc.
11030 Roselle Street
Suite D
San Diego, CA 92121

Additional conveying party(ies)

NO

3. Nature of conveyance:

ASSIGNMENT

Execution Date:

October 10, 2003

Additional name(s) & address(es) attached? NO

4. Application number(s) or patent number(s):

If this is being filed together with a new application, the execution date of the application is:

A. Patent Application Number(s):

09/613,650

B. Patent Number(s):

Additional numbers attached? NO

5. Name and address of party to whom correspondence concerning document should be mailed:

Barry S. Wilson
FOLEY & LARDNER
P.O. Box 80278
San Diego, California 92138-0278

6. Total number of applications/patents involved: 1

7. Total fee (37 C.F.R. § 3.41): \$40.00

Check Enclosed

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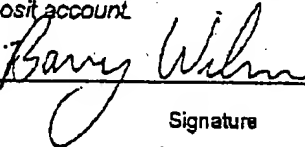
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To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. The Commissioner is hereby authorized to charge any additional recordation fees which may be required in this matter to the above-identified deposit account.

Barry S. Wilson



October 14, 2003

Name of person signing

Signature

Date

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10/16/03 3:42 PAGE 1/3 RIGHTFAX

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ASSIGNMENT AND AGREEMENT

WHEREAS, Kenneth F. Buechler, Ph.D. of PO Box 77, Rancho Santa Fe, CA 92067; (hereinafter referred to singly and collectively as "ASSIGNOR") have invented a certain invention entitled **DIAGNOSTIC DEVICES AND APPARATUS FOR THE CONTROLLED MOVEMENT OF REAGENTS WITHOUT MEMBRANES** (Atty. Dkt. No. 071949-1307) for which an application for United States Letters Patent was filed on July 11, 2000 as Application No. 09/613,650; and

WHEREAS, Biosite Diagnostics, Inc., a corporation duly organized and existing under the laws of the State of Delaware, and having its principal place of business at 11030 Roselle Street, Suite D, San Diego, CA 92121 (hereinafter referred to as "ASSIGNEE") is desirous of acquiring the entire interest therein;

NOW THEREFORE, in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, ASSIGNOR has sold, assigned, and transferred, and by these presents hereby sells, assigns, and transfers, unto ASSIGNEE, its successors and assigns, the full and exclusive right, title, and interest in and to (a) the above-identified invention or inventions and all improvements and modifications thereof, (b) the above-identified application and all other applications for Letters Patent of the United States and countries foreign thereto for the above-identified invention or inventions and all improvements and modifications thereof, (c) all Letters Patent which may issue from said applications in the United States and countries foreign thereto, (d) all divisions, continuations, reissues, and extensions of said applications and Letters Patent, and (e) the right to claim for any of said applications the full benefits and priority rights under the International Convention and any other international agreement to which the United States adheres; such right, title, and interest to be held and enjoyed by ASSIGNEE, its successors and assigns, to the full end of the term or terms for which any and all such Letters Patent may be granted as fully and entirely as would have been held and enjoyed by ASSIGNOR had this Assignment not been made.

ASSIGNOR HEREBY AUTHORIZES AND REQUESTS the Commissioner of Patents and Trademarks to issue said Letters Patent to ASSIGNEE as assignee of the entire interest, for the sole use and benefit of ASSIGNEE, its successors and assigns.

ASSIGNOR HEREBY AGREES (a) to communicate to ASSIGNEE, its successors and assigns, or their representatives or agents, all facts and information known or available to ASSIGNOR respecting said invention or inventions, improvements, and modifications including evidence for interference, reexamination, reissue, opposition, revocation, extension, or infringement purposes or other legal, judicial, or administrative proceedings, whenever requested by ASSIGNEE; (b) to testify in person or by affidavit as required by ASSIGNEE, its successors and assigns, in any such proceeding in the United States or a country foreign thereto; (c) to execute and deliver, upon request by ASSIGNEE, all lawful papers including, but not limited to, original, divisional, continuation, and reissue.

Atty. Dkt. No. 071949-1307

applications, renewals, assignments, powers of attorney, oaths, affidavits, declarations, depositions; and (d) to provide all reasonable assistance to ASSIGNEE, its successors and assigns; in obtaining and enforcing proper title in and protection for said invention or inventions, improvements, and modifications under the intellectual property laws of the United States and countries foreign thereto.

ASSIGNOR HEREBY REPRESENTS AND WARRANTS that ASSIGNOR has the full and unencumbered right to sell, assign, and transfer the interests sold, assigned, and transferred herein, and that ASSIGNOR has not executed and will not execute any document or instrument in conflict herewith.

ASSIGNOR HEREBY GRANTS to the law firm of **Foley & Lardner** the power and authority to insert in this Assignment any further identification which may be necessary or desirable to comply with the rules of the U.S. Patent and Trademark Office for recordation of this Assignment.

ASSIGNOR UNDERSTANDS AND AGREES that the attorneys and agents of the law firm of **Foley & Lardner** do not personally represent ASSIGNOR or ASSIGNOR's legal interests, but instead represent the interests of ASSIGNEE; since said attorneys and agents cannot provide legal advice to ASSIGNOR with respect to this Assignment, ASSIGNOR acknowledges its right to seek its own independent legal counsel.


Executed this 10 day of Oct, 2003



KENNETH F. BUECHLER, PH.D.

State of California
County of San Diego)ss.

On this 10 day of October, 2003, before me, a notary public in and for said county, appeared KENNETH F. BUECHLER, PH.D., who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and he/she acknowledged that he/she signed, sealed, and delivered the said instrument as his/her free and voluntary act for the uses and purposes therein set forth.



Notary Public
My Commission Expires: 10/20/05



071949-1301
5458852 10-17-95

**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
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DATE: 10/28/92
TO:
LYON & LYON
611 WEST SIXTH ST.
34TH FL.
LOS ANGELES, CA 90017
ATTN: MARY S. CONSALVI, ESQ.

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ASSIGNOR:

KENNETH FRANCIS BUECHLER

DOC DATE: 09/14/92

RECORDATION DATE: 09/21/92 NUMBER OF PAGES 003 REEL/FRAME 6243/0843

DIGEST :ASSIGNMENT OF ASSIGNORS INTEREST

ASSIGNEE:

BIOSITE DIAGNOSTICS INCORPORATED
11030 ROSELLE STREET STE. D
SAN DIEGO, CALIFORNIA 92121

SERIAL NUMBER 7-887526 FILING DATE 05/21/92
PATENT NUMBER ISSUE DATE 00/00/00

EXAMINER/PARALEGAL
ASSIGNMENT BRANCH
ASSIGNMENT/CERTIFICATION SERVICES DIVISION

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LYON & LYON



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Patent and Trademark Office

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To the Honorable Commissioner of Patents and Trademarks. Please record the attached original documents or copy thereof.

(1) Name of conveying party(ies):
KENNETH FRANCIS BUECHLER
12523 Manifesto Place
San Diego, CA 92130

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

(2) Name and address of receiving party(ies):
Name: BIOSITE DIAGNOSTICS INCORPORATED
Internal Address: _____

(3) Nature of conveyance:
☒ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☐ Other _____

Execution Date: September 14, 1992

Street Address: 11030 Roselle Street
Suite D
City: San Diego State: CA ZIP 92121
Additional name(s) & address(es) attached? ☐ Yes ☒ No

(4) Application number(s) or patent number(s):
If this document is being filed together with a new application, the execution date of the application is: _____

A. Patent Application No(s). S.N. 07/887,526 B. Patent No(s). _____

Additional numbers attached? ☐ Yes ☒ No

(5) Name and address of party to whom correspondence concerning document should be mailed:
Name: MARY S. CONSALVI, ESQ.
Internal Address: LYON & LYON
Street Address: 611 West 6th St., 34th Fl.

(6) Total number of applications and patents involved: One

(7) Total fee (37 CFR 3.41): \$ 40.00
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☐ Authorized to be charged to deposit account

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(9) Statement and signature.
To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

MARY S. CONSALVI
Name of Person Signing

Mary Consalvi
Signature

9/17/92
Date

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ASSIGNMENT

WHEREAS, I, KENNETH FRANCIS BUECHLER, a citizen of the United States of America, residing at 12523 Manifesto Pl., San Diego, CA, 92130, County of San Diego, State of California, have invented a new and useful DIAGNOSTIC DEVICES AND APPARATUS FOR THE CONTROLLED MOVEMENT OF REAGENTS WITHOUT MEMBRANES for which I have filed application papers for United States Letters Patent thereon, filed May 21 1992; and


WHEREAS, Biosite Diagnostics Incorporated, a Delaware Corporation, having its address and principal place of business at 11030 Roselle Street, Suite D, San Diego, California 92121, is desirous of acquiring the exclusive right, title and interest in and to said invention and in and to the Letters Patent to be granted and issued therefor throughout the world.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, I, the said Kenneth F. Buechler, do hereby sell, assign, transfer and set over unto the said Biosite Diagnostics Incorporated, its successors and assigns, the full and exclusive right, title and interest in and to the said invention, and in and to any and all Letters Patent to be granted and issued therefor, including all continuations, continuations-in-part and/or divisional applications, not only for, to and in the United States of America, its territories and possessions, but for, to and in all countries throughout the

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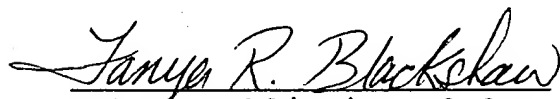
world, including all priority rights under the International Convention and any other applicable laws or treaties; and I hereby authorize and request the United States Commissioner of Patents and Trademarks to issue said Letters Patent to said Biosite Diagnostics Incorporated, its successors and assigns, in accordance with this Assignment.

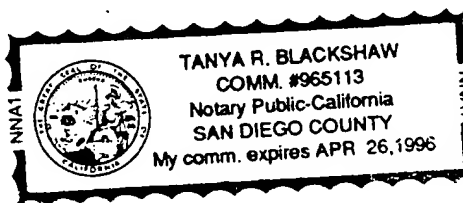
WITNESS MY HAND at San Diego, California, this 14 day of September, 1992.


Kenneth Francis Buechler

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On this 14 day of September, 1992, before me, the undersigned, a Notary Public for the State of California, personally appeared Kenneth Francis Buechler, personally known to me to be the person whose name is subscribed to the foregoing instrument and acknowledge to me that he executed the same.


Notary Public in and for
said County and State



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OFFICE

SEP 21 1992

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